

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In The Matter Of:)
Varnell Woods) Case Number: 21-42564-659
DBA Woods Handyman Services)
AKA Varnell Woods, Sr.)
Regina Woods) Chapter 13
Debtors) Motion to Lift Stay filed by
Simmons Bank) Simmons Bank
Movant,)
vs.)
Varnell Woods)
DBA Woods Handyman Services)
AKA Varnell Woods, Sr.)
Regina Woods)
and)
Diana S. Daugherty)
Trustee)
Respondents)

Hearing Date: March 21, 2022
Hearing Time: 10:00 AM
Objection Deadline: March 14, 2022

NOTICE OF HEARING AND
MOTION FOR RELIEF FROM AUTOMATIC STAY, OR
IN THE ALTERNATIVE, TO DISMISS

**WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY
AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY
CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND
THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND**



SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE BY MARCH 14, 2022. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU.

IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS. THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE KATHY A. SURRETT-STATES, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, THOMAS F. EAGLETON U.S. COURTHOUSE, 111 SOUTH TENTH STREET, FLOOR 7, NORTH COURTROOM, ST. LOUIS, MO 63102.

COMES NOW, Simmons Bank and for its Motion for Relief from Automatic Stay, or, in the Alternative, to Dismiss and respectfully states to the Court as follows:

1. On July 9, 2021, Debtors filed a Petition under Chapter 13 of the Bankruptcy Code. Diana S. Daugherty is the duly appointed and qualified Trustee in this case.

2. Simmons Bank is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated September 11, 2009 in the original principal



amount of \$330,300.00. A copy of said Note has been electronically attached to this document as Exhibit A and is made a part hereof by this reference.

3. Said Note is secured by a Deed of Trust dated September 11, 2009 and recorded as Book DE5276, Page 1534 modified by Loan Modification Agreement Recorded August 20, 2014 as Book DE6230, Page 825 constituting a first lien on real estate owned by the Debtors. Said property being commonly known as 2226 Bay Tree Dr, Saint Peters, MO 63376; more particularly described as follows:

LOT 33H OF "OHMES FARM", A SUBDIVISION IN ST. CHARLES COUNTY, MISSOURI, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 45 PAGES 121 THRU 135, OF THE ST. CHARLES COUNTY RECORDS.

A copy of said Deed of Trust, which is recorded in the St. Charles County Recorder of Deeds Office, has been electronically attached to this document as Exhibit B and is made a part hereof by this reference.

4. Movant seeks to enforce said Note and Deed of Trust as by law allowed. No creditor or Trustee of the estate has any interest in said realty superior to the rights of Movant.

5. This Court previously entered its Order pursuant to 11 U.S.C. Section 362(a) prohibiting, among other things, any act to enforce any lien against the property of the estate and any act to obtain possession of property of the estate.

6. As of February 23, 2022, the current pay off on said note is as follows:

Principal	\$244,180.82
Interest	\$9,515.39
Escrow	(\$47.48)
Suspense	(\$1,926.22)
Arrearage Account	\$38,767.56
Foreclosure Fee	\$2,966.00
Bankruptcy Fee	\$500.00



Total Pay Off	\$293,956.07
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7. The Chapter 13 Plan filed by the Debtors calls for treatment of the secured claim with payments being made by the Debtors. Monthly post petition payments are owing and delinquent from November 20, 2021. The following are the payments that are delinquent as of February 23, 2022:

4 payments @ \$2,836.53	\$11,346.12
MFR Arrearages Suspense	(\$1,876.22)
Total Arrearages	\$9,469.90

The next payment under the terms of the Note will come due on March 20, 2022 and is in the amount of \$2,836.53. A post-petition payment history has been electronically attached to this document as Exhibit C and is made a part hereof by this reference.

8. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred attorney fees in the amount of \$700.00 and costs in the amount of \$188.00. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

9. The aforesaid realty has depreciated in value while in possession of the Debtors. There is no equity in said property for the benefit of the bankruptcy estate. Such property is not necessary for an effective reorganization.

10. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:



- (a) Post-petition payments to Simmons Bank have not been paid by the Debtors.
- (b) Simmons Bank does not have adequate protection for its interest in said real estate.
- (c) If Simmons Bank is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.
- (d) The Chapter 13 plan with respect to Simmons Bank was not proposed in good faith as required by 11 U.S.C. Section 1325(a)(3) notwithstanding confirmation by the Court.

11. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Counsel for Debtors to the extent provided for under applicable nonbankruptcy law to discuss loss mitigation options including alternatives to foreclosure including a deed in lieu of foreclosure.

WHEREFORE, Movant prays that this Court terminate the automatic stay in regard to the realty in order to permit Movant, or its successors and assigns to proceed with foreclosure on the aforesaid property to pursue its remedies under state law in connection with the aforesaid Deed of Trust and Note, and to pursue its remedies under state law for possession of said property after foreclosure, to proceed with any foreclosure alternatives and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for fourteen (14) days. In the alternative, Movant prays that this Court dismiss this case for failure to abide by the terms and conditions of the Chapter 13 plan and for such other relief as is appropriate and just.

Dated February 24, 2022



Respectfully Submitted:
Millsap & Singer, LLC

/s/ Christopher D. Lee

Cynthia M. Kern Woolverton, #47698, #47698MO

Stewart C. Bogart, #67956, #67956MO

Christopher D. Lee, #63024, #63024MO

612 Spirit Drive

St. Louis, MO 63005

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Attorneys for Simmons Bank



**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In The Matter Of:

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Regina Woods)
Debtors)
Simmons Bank)
Movant,)

SUMMARY OF EXHIBITS

The following exhibits in reference to the Motion for Relief have been electronically attached as Exhibits and are available upon request in their entirety.

- A. Note
- B. Deed of Trust
- C. Post Petition Payment History

Respectfully Submitted:
Millsap & Singer, LLC

/s/ Christopher D. Lee
Cynthia M. Kern Woolverton, #47698, #47698MO
Stewart C. Bogart, #67956, #67956MO
Christopher D. Lee, #63024, #63024MO
612 Spirit Drive
St. Louis, MO 63005
Telephone: (636) 537-0110
Facsimile: (636) 537-0067
bkty@msfirm.com

Attorneys for Simmons Bank



CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on February 24, 2022, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court pursuant to CM/ECF as set out on the Notice of Electronic filing as issued by the Court or in the alternative has been served by depositing a true and correct copy of same enclosed in a postage prepaid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service on those parties directed by the Court on the Notice of Electronic Filing issued by the Court as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court.

/s/ Christopher D. Lee

Electronic Mail Notice List

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Jack Justin Adams

Diana S. Daugherty

Office of the United States Trustee

Manual Notice List

The following is a list of parties who are not on the list to receive e-mail notices for this case (who therefore require manual noticing).

Varnell Woods
DBA Woods Handyman Services
AKA Varnell Woods, Sr.
Regina Woods
2226 Bay Tree Dr
Saint Peters, MO 63376

Titan Homes
7417 Mexico Rd. #102
Saint Peters, MO 63376

